

Concrete/Asphalt Batch Plants

AIR PERMITTING

Indiana's air rules require any source or facility that emits more than a certain amount of pollutants into the atmosphere to obtain an air permit from the Indiana Department of Environmental Management (IDEM). Bituminous asphalt batch plants release volatile organic compounds (VOCs), nitrous oxides (NO_x), and sulfur dioxide (SO₂) into the atmosphere. In addition, both asphalt and concrete batch plants release particulate matter (PM-10). These laws apply to portable sources or facilities, such as bituminous asphalt and concrete batch plants. To acquire a permit for either an asphalt or a concrete batch plant, the contractor must submit completed forms to IDEM (forms are supplied by IDEM's Office of Air Management). After the contractor acquires a portable plant operating permit for the batch plant, he may move the operation to another location by providing IDEM thirty days notice of the proposed location. When IDEM approves the new location, an Approval Letter will be issued by the agency.

Project Engineer/Supervisor and Inspectors should ask contractors to produce this site approval letter if the plant is located on INDOT property. If INDOT permits the contractor to use INDOT rights-of-way for the construction and operation of a portable asphalt or concrete batch plant, and the contractor does not obtain a valid air permit and site approval letter, INDOT may be considered a responsible party as the owner of the property where the unauthorized activity is taking place. The contractor, as the operator of the unauthorized activity, will also be considered a responsible party. Initial notices of a violation for failure to obtain the air permit would be sent to the contractor as the operator of the unauthorized activity and INDOT as the owner of the rights-of-way. However the IDEM enforcement office has indicated that if INDOT produced evidence such as a written contract showing that the contractor was responsible for obtaining the necessary permits, IDEM would consider the contractor responsible for the violation and pursue action and assess penalties against the contractor. Anytime INDOT has an ownership interest in the real estate where an activity is taking place, INDOT is at risk for being held responsible for the contractor's environmental violations or failure to obtain a permit.

If the activity is taking place off of INDOT rights-of-way outside of the project area or if INDOT is the recipient of products produced from an off-site private facility, INDOT will generally not be held liable for the contractor's/supplier's actions or omissions. It is generally not feasible for INDOT project personnel to be responsible for verifying that the contractor has obtained all required permits or that the contractor is complying with all appropriate laws. For these reasons, certain responsibilities, such as obtaining the appropriate permits, have been delegated to the contractor by contract. However, in order to avoid potential liability, if INDOT is aware of or has reason to believe that the contractor has not obtained a permit or is violating the law, INDOT does have the obligation to exercise due diligence in preventing the violation or ensuring that the contractor takes action to obtain the appropriate permit.

If the contract contains a clause stating that the contractor is responsible for obtaining all necessary permits, the contractor's failure to obtain a permit can be considered a breach of the contract, and INDOT may be able to make a claim for damages against the contractor in the amount of any fines INDOT has to pay for the violations. The contractor can also be brought up before the prequalification committee for failure to comply with the contract provisions.

326 IAC 2-14-4 Relocations

- (a) A portable source, operation, process, or emissions unit that has been issued a valid operating permit under this article may be issued a site approval letter for a new site that authorizes operation of the source, operation, process, or emissions unit as follows:
 - (1) The source submits a notification at least thirty (30) days prior to relocation.
 - (2) The commissioner shall approve or deny the relocation within thirty (30) days of receipt of the notification of the proposed relocation.
 - (3) The application submitted for a permit revision in accordance with 326 IAC 2-6.1-6, 326 IAC 2-7-12, or 326 IAC 2-8-11.1 shall satisfy the notification requirements of this section.
- (b) The commissioner shall not approve a relocation of a portable source, operation, process, or emissions unit, if the following applies:
 - (1) The relocation would allow a violation of the national ambient air quality standards (NAAQS).
 - (2) The relocation would allow a violation of a prevention of significant deterioration (PSD) maximum allowable increase.
 - (3) The source is not in compliance with all applicable air pollution control rules.
 - (4) The relocation would adversely affect the public health.

WATER PERMITTING

The Indiana Department of Natural Resources (IDNR) requires contractors to comply with the water withdrawal regulations (IC 14-25-7). The statutes require temporary concrete plants to register with IDNR as a significant water withdrawal facility.

IC 14-25-7-15

- (b) Every person who has a significant water withdrawal facility shall register the facility with the commission on forms provided by the commission that contain the following:
 - (1) The name and legal address of the registrant.
 - (2) The source of water supply.
 - (3) The total capability of the water withdrawal facility.

- (4) The total withdrawal capability per day and the amount from each source.
- (5) The use to be made of the water, the place of use, and the place of discharge.
- (6) The geographic location of the supply source.
- (7) The date of registration.
- (8) Other information specified by rule.
- (c) A significant water withdrawal facility must be registered within three (3) months after the facility is completed.
- (d) The owner of a registered significant water withdrawal facility shall, within three (3) months after the end of each year, make a verified report to the commission on forms to be provided by the commission of the amounts of water withdrawn during the year.
- (e) Under rules adopted by the department, the department may waive the requirement of the information set forth in subsections (b) and (d) with respect to a temporary significant water withdrawal facility.